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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,347	08/14/2001	Florian Pestoni	ARC920010018US1	6681

26381 7590 10/06/2006

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ART UNIT	**PAPER NUMBER**
2152	

DATE MAILED: 10/06/2006

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/928,347
Filing Date: August 14, 2001
Appellant(s): PESTONI ET AL.

Jaclyn A. Schade
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11.9.2005 appealing from the Office action mailed 5.9.2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

This appeal involves claims 1-23. The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

In a supplemental advisory action, claims 9 and 22 were amended to overcome 35 U.S.C § 112 issues. Thus, the 35 U.S.C § 112, second paragraph, rejections of claims 9 and 12 are withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Noll et al, U.S. Patent Application Publication 2002|0054087, published on May 9, 2002, but filed on April 17, 2001 and claiming benefit of U.S. Provisional Application No. 60|197,682, filed on April 17, 2000 [hereinafter "Noll"].

Hosken, U.S. Patent No. 6,438,579, issued on August 20, 2002, but filed on July 14, 2000 and claiming benefit of U.S. Provisional Application No. 60|144,377, filed on July 16, 1999.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noll et al. (US 2002/0054087) in view of Hosken (US 6,438,579)

In regards to claim 1, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering [0066], distribution of content and allocation of users to said distributed content, one or more steps of said method performed over a network (abstract, [0039]), said method comprising:

- Dynamically allocating said bandwidth to a plurality of communication channels (124), each of said channels retaining one or more instances of content ([0041], [0057] [0066]);
- recursively receiving user preferences of content information from a user [0007] [0058-0059][0063], said preferences comprising one or more of: selection requests for

specific content, evaluations of existing content, and evaluations of potential content ([0058][0063]);

- dynamically retaining within a selected channel a collection of specific instances of content based on an a collation of said preferences ([0066] [0063]), said collection placed on an allocated communication channel ([0041]] over a period of time; ([0068] [0078-0079])
- dynamically allocating user access to-channels based on a best match with said preferences ([0039][0044] [0081-0083] [0085]).

Noll does not explicitly state receiving user content preferences from "multiple users". However Noll indicates a need to personalize content for multiple users ([0005])

Hosken et al. teaches a collaborative filtering system for recommending content to users based on comparison between the user and other users preferences of content and between content databases that store rating data for content provided by users (abstract lines 1-8). The preferences (recommendations) are tailored to personalized interests through steps which include presenting content to a user for review and consideration of potential interest, monitoring the consideration of the content items implied through the user directed navigation among existing content and specific user content request (col 2 lines 36-44). The collected preference data is used to develop a user weighted data set reflective of the user's relative consideration of the content; and evaluation of the user weighted data set in combination with the content filter to identify a set of content for presenting to a user (col. 2 lines 44-50). One of ordinary skill in the art at the time of invention would have realized that it is advantageous for the system of Noll et al. to have content information comprising

collation of preferences from multiple users in order to increase the efficient of the system providing recommendations that the users will enjoy and appreciate; as well as being consistent with a users personal interests (col. 1 lines 31-41, 23-27).

In regards to claim 2, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1,

Noll et al. fail to teach:

- wherein said evaluations of existing and potential content represent user preferences based on voting for or against the content.

Hosken further teaches a users ability to provide ratings (i.e. votes) regarding the content recommendations indicating the degree to which the user preferred the recommended content. Ratings constitute stored implicit and explicit ratings of data content provided by the user (abstract lines 6-8). Similarities between the user rating of content, existing content, and other users' ratings are correlated (abstract lines 11-13). Based on the correlations, a subset of users is selected that are then used to provide recommendations of content to the use (abstract lines 14-17). Content is presented to a user for review and consideration (abstract lines 17-20). Hosken continues to teach user preference based on voting for or against. This process includes recommending content to a users; the user then is able to review and consider the items. Votes for can include user selection of a particular content item and request for additional information, length and nature of consideration of content (col 2 lines 36-50, col 3 lines 21-25). Votes against include user not selecting a

recommended content item. Voting can also be derived from polls, rankings and ratings of content (col 9 lines 38-41) This review and consideration (i.e. voting) is monitored by the system to develop weighed data set reflective of the users consideration of content (col 2 lines 36-50, col 6 lines 28-31).

It would have been obvious to one of ordinary skill in the art at time of invention to have the Noll et al.'s system of evaluation based on voting in order to incorporate high confidence information that is incorporated into group and individual collaborative data as well as to develop group and personal interest profiles that produce recommendations that have a high probability of being appreciated by the user (abstract lines 12-17, col 3 lines 20 – 33).

In regards to claim 3, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said evaluations of potential content (i.e. new content) comprises introduction of new content which, (i.e. new content opportunities), appears to be a high probability match (i.e. match interest of user) and said evaluations (i.e. profile) are used to validate or invalidate said match [0085].

Noll et al. fails to teach wherein said evaluations of potential content comprises introduction of new content which, based upon a comparison with said collection ~~collected content~~, appears to be a high probability match and said evaluations are used to validate or invalidate said match.

Hosken teaches the developments collaborative content data based on evaluations of group and individual interests (col. 3 lines 20-33) that are stored in a database (col. 4 lines 43-48). The stored data is used to provide recommendations for users (i.e. matching) (col. 4 lines 48-50). User profile content data is also used for modifying (i.e. invalidate) and expanding (i.e. validate) on individualized recommendations (col. 4 lines 50- 55). In this manner, the system provides qualifying information reflecting the strength or weight of content relations (i.e. matching) and may take multiple approaches to generating a recommendation set (i.e. high probability matching) to produce the content set present to the user (col 6 lines 35-46,57-60).

It would have been obvious one of ordinary skill in the art at the time of invention to utilize Hosken's evaluation technique to effectively be capable of providing content recommendations suited to the particular interest of a user. Thus eliminating the lack of confidence, which would reduce the utility of the system, in content recommendations. (col. 1 lines 42-58)

In regards to claim 4, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1,

Noll et al. fails to teach:

- wherein said instances of content comprise selected songs.

Hosken teaches media content, which includes music samples, song tracks (col 4, lines 14-25) that can be selected (col 3 lines 20-22). One of ordinary skill in the art at time of the

invention would have been motivated to include in Noll et al. content as comprising of selected songs in order to include a form of media entertainment that is capable of being enjoyed and appreciate which can result in purchase when transmitted to a user (col 1 lines 42- 45, col 2 lines 17-20).

In regards to claim 5, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said distribution of content is distributed across the internet to a user ([0091] lines 1-5)

Noll et al. is silent on the distribution of songs.

- wherein said distribution of content comprises distributing selected songs across the internet to a user.

Hosken teaches media content, which includes music samples, song tracks (col 4, lines 14- 25) that can be selected (col 3 lines 20-22). One of ordinary skill in the art at time of the invention would have been motivated to include in Noll et al. content as comprising of selected songs in order to include a form of media entertainment that is capable of being enjoyed and appreciate which can result in purchase when transmitted to a user (col 1 lines 42- 45, col 2 lines 17-20) operating a computer system with a network access supported interface such as a conventional web browser application, to access and navigate applications supporting the presentation of songs that sent from a content storage location (See Hosken col 4, lines 28- 43).

In regards to claim 6, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said distribution of content comprises distributing selected songs across the Internet and said communication channels comprise streaming audio channels. ([0058] lines 3-5 [0060] lines 12-14)

Noll et al. is silent on said distribution of content comprises distributing selected songs:

Hosken teaches media content, which includes music samples, song tracks (col 4, lines 14- 25) that can be selected (col 3 lines 20-22). One of ordinary skill in the art at time of the invention would have been motivated to include in Noll et al. content as comprising of selected songs, that are on the streaming audio packed channels so that the songs are played back to the user as quickly as possible without lengthy download time, in order to include a form of media entertainment that is capable of being enjoyed and appreciated by the user and can result in purchase (col 1 lines 42- 45, col 2 lines 17-20).

In regards to claim 7, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1

Noll et al fails to disclose wherein said distribution of content, comprises:

- Distributing selected electronic content to a user from any of: web distribution centers, cable television systems, and, satellite systems.

Hosken discloses teaches content distributed to requestor from one or more industry databases, third party databases (col 5 lines 62-66, col 6 lines 1-5); the user having the ability

to access and navigate through the content presented by a server system via a computer system with network access supported interface (i.e. web browser) (col 4 lines 32-48).

One of ordinary skill in the art at time of the invention would recognize the advantage of the Noll et al. system utilizing web distribution systems in order to fulfill the content requests (col 6 lines 1-5) of a collaborative system that reflect the choice of users with highly diverse content interests (col 3 lines 5-10).

In regards to claim 8, Noll, discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1, wherein said distribution of content comprises distributing selected electronic content comprising any of:

- Video ([0054] lines 8-9), software, personal ads, news stories ([0060] lines 12-18) restaurant ratings, evaluating advertisement, and political propositions including matching candidates and issues.

In regards to claim 9, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1,wherein said step of allocating user access to one or more dynamically allocated communication channels comprises

- dynamically providing said access based on a match[0085] of a specific user's collaborative (i.e. implicit & explicit preferences used together to determine

channels) preferences ([0044] [0059][0063]) with that of the collaborative preferences (i.e. collaborating includes examining user profiles and content preferences to create categories for a channels) of the allocated channel ([0054 - [0056][0063][0064][0066]).

In regards to claim 10, Noll et al. discloses a method of optimizing bandwidth allocation based on selective filtering, distribution of content and allocation of users to said distributed content, as per claim 1,

- wherein a new user is mapped to and initial content channel by building a new user profile. ([0064] lines 1-5, [0066] lines 3-6, [0079] lines 1-12, [0081] lines 6-19, Claim 1,7)

Noll et al. is silent on:

- building a new user profile comprising the steps of presenting a plurality of content selections to the user and registering positive and negative votes of said content selections

Hosken teaches the explicit and implicit ratings (i.e. votes) from users are stored. The users profile contains the implicit and explicit (Table II & III) content interests of the user. The user profile is used to determine the new content items that are recommended to the user. These recommendations are presented to the user for further exploration. (Abstract, col 2 lines 36-44, col 5 lines 19-26, col 6 lines 5-17). The user navigates the content and may request samples (i.e. votes for/implicit positive rating) (figure 1a, col 5, lines 41-61). Hosken continues to teach user preference based on positive and negative votes. This process includes

recommending content to a users; the user then is able to review and consider the items. Positive votes can include user selection of a particular content item and request for additional information, length and nature of consideration of content (col 2 lines 36-50, col 3 lines 21-25). Negative votes include user not selecting a recommended content item. This voting is monitored by the system to develop weighed data set reflective of the users consideration of content (col 2 lines 36-50, col 6 lines 28-31).

It would have been obvious to one of ordinary skill in the art at time of invention to have the Noll et al.'s system of evaluation based on voting in order to incorporate high confidence information that is incorporated into group and individual collaborative data as well as to develop group and personal interest profiles that produce recommendations that have a high probability of being appreciated by the user (abstract lines 12-17, col 3 lines 20 -33).

In regards to claim 11, Noll et al. discloses a collaborative content programming system, one or more elements of said system located across networks ([0036]), said system comprising:

- a content database (Figure 1 #122), said content database retained within one or more storage locations across said network (Figure 17, [0054]);
- a content engine Figure 1 #12), said content engine collecting specific instances of content retained in said content database into channels (abstract lines 7-10, [0007] lines 8-18,[0039] lines 6-16);
- an available channel selector, said selector providing access to said channels to content requesters; ([0007] lines 25-30, [0044] lines 7-17, [0076])

- said content engine determining a best match to connect each of said content requesters to one or more of said available channels based on specific content requests ([0054] lines 15-17, [0056] , [0067-0068], [0077]);
- said content engine aggregating said specific content requests ([0040] lines 5-11, [0045]) and requestor evaluations of specific content, and ([0007] line 30-32, [0054])
- said content engine dynamically modifying said collected specific instances of content retained in said content database into channels based on said aggregating ([0054],[0079])

Noll et al is silent on

- said content engine dynamically modifying said collected specific instances of content retained in said content database

Hosken teaches a system, which comprises a server system, which contains content databases that store both Implicit and explicit content processed by the content engine are stored (figure 1A, figure 2) . The content databases contain a content filter for identifying and providing qualifying information for content items in the database, which produce, contain recommendations. Content recommendations are tailored to a user that includes steps of presenting content items via a network to a user for review and consideration (col 2 lines 36-44). Hosken discloses the content engine (figure 2-referral system) that provides content recommendations and combines content data collected from other users, in a collaborative fashion, which is used to modify and expand on individual content recommendations (col 4 lines 43-55).

One of ordinary skill in the art at time of the invention would have clearly recognized that it is advantageous to continue to modify the content retain in the content database in order to refine the user profiles as to the interest of the user and deepening the search for content items that are of particular interest to the user (col 6 lines 33-43, col 13 lines 20-24).

In regards to claim 12, Noll et al. discloses a collaborative content programming system, as per claim 11,

Noll et al. fails to teach:

- wherein said evaluations comprise voting on existing and potential content, said voting representing user preferences.

Refer to claim 2 above discussion on what Hosken teaches.

In regards to claim 13, Noll et al. discloses a collaborative content programming system as per claim 12

Noll et al. fails to teach wherein said evaluations of potential content comprises:

- introduction of new content which, based upon a comparison with said ~~collected~~ content, appears to be a high probability match and said evaluations are used to validate or invalidate said match.

Refer to claim 3 discussions above on what Hosken teaches.

In regards to claim 14 Noll et al. discloses collaborative content programming system, as per claim 11,

Noll et al. fails to teach:

- wherein said content comprises selected songs.

Refer to claim 4 discussions above on what Hosken teaches.

In regards to claim 15, Noll et al. discloses collaborative content programming system, as per claim 11, wherein said content is broadcast across the Internet ([0039], [0060] lines 12-21, [0066] lines 1-7).

Noll et al. teaches content is broadcasted on channels over Internet Service Providers, which provides access to the Internet, to allow for real time distribution of content to users ([0006], [0039]).

In regards to claim 16 Noll et al. discloses a collaborative content programming system, as per claim 11, wherein said content is broadcast ([0039], [0060] lines 12-21, [0066] lines 1-7)across the Internet and said channels comprise streaming audio channels ([0058] lines 3-5 [0060] lines 12-14)

Noll et al. teaches content is broadcasted on channels over Internet Service Providers, that provides access to the Internet, from which content is easily distributed users in real time, presented to the user as quickly as possible without lengthy download time ([0006], [0039]) and prevents time shifted presentation content transmitted to user computer or Internet access devices ([0091]).

In regards to claim 17 Noll et al. discloses A collaborative content programming system, as per claim 11, wherein said content is broadcast ([0039], [0060] lines 12-21, [0066] lines 1-7) to a requestor from web distribution centers.

Noll et al. is silent on broadcast to requestor from web distribution centers.

Refer to claim 7 discussions above for what Hosken teaches.

In regards to claim 18, Noll et al. discloses collaborative content programming system, as per claim 11, wherein said content is broadcast across said channels ([0039], [0060] lines 12-21, [0066] lines 1-7)

Noll et al. is silent on broadcast across said channels from any of:

- web distribution centers, cable television systems, and satellite systems.

Refer to claim 17 discussions above on what Hosken teaches.

In regards to claim 19, Noll et al. discloses a collaborative content programming system, as per claim 11, wherein said content comprises any of:

- Video ([0054] lines 8-9), software, personal ads, news stories ([0060] lines 12-18) restaurant ratings, evaluating advertisement, and political propositions including matching candidates and issues.

In regards to claim 20, Noll et al. discloses collaborative content programming system, as per claim 11, wherein said evaluations additionally include request for omissions of specific content ([0079)].

Noll et al. teaches a system that allows for the removal of undesirable content and also filters content based on user preferences; allowing only the content of interest to be presented to the user ([0079]). The system issues commands that activate or deactivate content which define the composition of the content on the channels ([0068] lines 9-15).

In regards to claim 21, claim 11 as modified above, Noll et al. discloses a collaborative content programming system, as per claim 11, wherein said content engine comprises at least data mining algorithms ([0104] [106]).
Noll teaches data mining for use in tracking and gaining information concerning users personal habits, preferences, and opinions in exchange for credits, which may be redeemed for content purchases.

In regards to claim 22, Noll et al. discloses an e-commerce system [0110] for collaborative content programming with electronic access to user modified channels of content (figure 17-24, [0049] lines 5-10, [0050-53], [0071],) said model comprising:

- a collection of individual content selections, said collection retained within computer storage ([0054] lines 15-21) and accessible across computer networks [0039];
- computer software ([0039] lines 14-16, [0048]), said software tracking ([0007] lines 30-32) and aggregating both individual user's requests based on specific content selections and evaluations of specific selections from said collection said aggregated requests and evaluations retained locally or remotely in associated computer storage ([0054]);

- one or more channels, said channels dynamically collecting specific content based on said aggregated requests and evaluations, ([0039], [0054] [0081]) said computer software assigning a user to a best matching channel ([0048], [0067], [0070]), said channels accessible remotely by said user across said networks [0091], and
- revenue collection based on any of: subscription fees, per content fee, advertising, and content purchase options. [fig 19, fig 20, [0095-0098] [104])

Noll et al. fails to explicitly teach matching "users" to a best matching channel or channels accessible "users". However Noll indicates a need to personalize content for multiple users ([0005])

Refer to claim 1 rejection for that which Hosken teach.

In regards to claim 23 Noll et al. discloses, an article of manufacture ([0046] lines 1-4) comprising computer readable program code embodied therein ([0046][0047][0053]) which selective filters [0066] and distributes content based on combined user specific and collaborative inputs said computer readable program code comprising:

- computer readable program code for allocating a communication channel for one or more instances of content ([0041], [0057],[0066])
- computer readable program code for recursively receiving content information from a user (pg. 12 -#47-49), said content information comprising one or more of: selection requests for specific content, evaluations of existing content, and evaluations of potential content ([0058][0063]);

- computer readable program code for collecting specific instances of content based on said content information ([0063][0066]), said collection placed on an allocated communication channel ([0041]) over a period of time; ([0068] [0078] [0079]) and
- computer readable program code for allocating user access to one or more allocated communication channels based on said received content information ([0039] [0042] [0044] [0081-0083]).

Noll et al. does not "explicitly" receiving content information from "multiple users". However Noll indicates a need to personalize content for multiple users ([0005])

Hosken explicitly teach receiving content information from "multiple users" (abs). and using collaborative inputs (col. 3 ll. 5-10) to distribute content. Refer to claim 1 rejection for that which Hosken teach.

(10) Response to Argument

Claim 1

Applicant argues in substance: (a) that Noll and Hosken are missing dynamic allocation and collation elements as set forth in the claim; (b) that there is no motivation to combine Noll and Hosken [see page 8, paragraph 1]; and (c) Hosken fails to provide the required element of dynamically allocating bandwidth in a plurality of channels to which users are allocated access [page 13, paragraph 2].

In regards to (a), Noll discloses an invention that is directed towards delivering broadband content to a user through multiple virtual channels [0007] and does so by first "determining a link speed that a user machine can accommodate" [claim 1], said determining step including determining "a maximum bandwidth at which the personal computer receives content" [claim 2]. These determining steps are relevant as the virtual channels available to the user are based on the maximum bandwidth of the user's computer; virtual channels that require more bandwidth than a computer's maximum bandwidth are not allocated to the user [0076, 0077]. Further, Noll expressly states using controllers that are enabled for "the dynamic configuration of the virtual channels" [0068] and that there are high bandwidth channels for richer media content and low bandwidth channels for configuration information related to the content [0040, 0042].

A reasonable implication from these disclosures is that each of Noll's virtual channels have varying bandwidth requirements, the requirements depending on the kind of content that are dynamically allocated and configured to that channel [0003, 0042]. Thus, the amount of bandwidth to each channel is not static, but dynamically allocated based on the content

assigned to the channel. For example, channels that only transmit broadcast programming information are allocated lower amounts of bandwidth than those channels that are assigned to transmit multimedia files [0040]. The allocation of the content (bandwidth) to the channels can be done dynamically [0066]. Thus, contrary to Applicant's argument, Noll discloses dynamically allocating said bandwidth to a plurality of communication channels.

In regards to (b), Applicant further asserts that both Noll and Hosken fail to provide an integration or collation of preferences of multiple users [see page 8, paragraph 1]. For the purposes of this answer, Examiner utilizes the definition of "collate" set forth by Applicant on page 8, paragraph 1: "to collect, compare carefully in order to verify, and often to integrate or arrange in order". Based on this definition, Applicant seems to suggest that collating preference merely means collecting the preferences.

Noll clearly demonstrates collating preferences from a single user and utilizing these collated preferences to personalize the content delivered through the virtual channels [0064]. As stated in the final office action, mailed 7.9.2005, Noll failed to expressly disclose collecting preferences from multiple users [see Final Office Action, page 3]. Hosken is directed towards an analogous invention, a system for delivering personalized content to users [abstract]. Unlike Noll however, Hosken discloses that the personalized content for one user is based on the collation (or collection) of multiple user preferences [abstract | column 4 «lines 51-55»]. Hosken describes the advantages of using such a collaborative implementation as including allowing a user to explore additional kinds of content based on the recommendations of other users [column 2 «lines 13-20» | column 3 «lines 1-4»].

Thus, Hosken seems to provide a clear improvement over Noll's content personalization system. Whereas Noll relies only on a single user's preferences to deliver content, Hosken's collaborative implementation would improve the content delivery system by expanding the kinds of content that are available to a user while maintaining their level of personalization. It would have been obvious to one of ordinary skill in the art to have modified Noll's personalization system with the teachings provided by Hosken.

Applicant further argues that Hosken does not provide collation of preferences by multiple users, and that a user's profile is merely compared to another user's profile [page 13, paragraph 2]. However, this argument seems contradicted by Hosken's disclosure of collecting individual preferences or behaviors in order to provide expanded individual recommendations of content [Figure 2 «item 60» | column 4 «lines 51-55»].

Applicant also argues that the references are deficient because "multiple users are not provided access to a channel" [page 13, paragraph 2]. Applicant seems to be arguing a limitation not present in the claim. There is no claim language in claim 1 that discloses or suggests that multiple users have access to a channel as argued by Applicant. The only limitation regarding "multiple users" or group functionality is directed towards receiving user preferences from multiple users.

In regards to (c), it should be noted that Hosken was merely used as a teaching for providing user preferences from multiple users as opposed to the single user system disclosed in Noll. Noll disclosed all limitations of claim 1 except for the multiple user preferences. As discussed previously, Hosken's disclosure improves Noll by enabling a wider variety of content recommendations to users.

Claim 9

Applicant's assertion that the rejection of 12.8.2004 stated that Noll fails to teach "dynamically providing access" to a channel " based on a match of a specific user's collaborative preferences with that of the preferences of the allocated channel" [page 12, paragraph 3] is incorrect.

The rejection states in relevant part: "Noll et al fails to teach that the preferences of the allocated channel are collaborative" [page 11]. This language reinforces the purpose of modifying Noll with Hosken: to provide a teaching for personalizing content delivered to a user based on a collaborative method of collecting behaviors from multiple users. As discussed with claim 1, Noll is directed towards a single user content system. Hosken provides an improvement that enables content recommendations to be based on multiple user preferences [column 4 «lines 51-55»].

Claim 11

Applicant emphasizes: (a) that Noll and Hosken fail to disclose aggregating said specific content request and requestor evaluations of specific content and that Hosken merely compares a user's profile to another user's profile [page 13, paragraph 2]; and (b) that the references cannot be combined because they are directed towards different methods of content delivery [page 14, paragraph 1].

In regards to (a), this argument was fully addressed in the discussion of claim 1. Briefly, Applicant's characterization of Hosken ignores his disclosure of collecting (aggregating) the actions and behaviors of multiple users [column 4 «lines 51-55» | column 9

«lines 23-38»] and utilizing the specific request for content in conjunction with the collected evaluations (ratings) by other users [Figure 2 | column 10 «lines 20-38» where : user requests (arrow from the user input action 66) and the final weighting filter (derived from the collected group behaviors) help determine the recommended content 72].

In regards to (b), Hosken provides an improvement to Noll's content personalization system. Both systems rely on using user profiles to determine the types of content that may be delivered to a user [see Noll, 0043 & Hosken, abstract]. Thus, the combination based on how the content is personalized seems reasonable in that Noll's single user personalization function is improved upon and motivated by the advantages that Hosken's multiple user system provides.

Noll's method of delivery is not being modified by Hosken nor is Hosken's method of delivery essential to the personalization function that would be incorporated into Noll. Thus, there is no need to modify Noll's channels with Hosken's method of delivery and it would have been obvious to one of ordinary skill in the art to have modified Noll's personalization system with the teachings provided by Hosken.

Claims 22 and 23

Applicant reiterates arguments made towards the previous claims: (a) Hosken fails to describe the use of channels; (b) there is no group or joint decision making as to the content that is provided; and (c) there is no collation of preferences.

In regards to (a), see discussion in claim 11 concerning the relevance that Hosken fails to disclose the use of channels.

In regards to (b), there is no disclosure or suggestion of a "group or joint decision making" function. Claim 22 even fails to require multiple users in the system. And contrary to Applicant's argument, Hosken explicitly provides a teaching for collecting multiple users behaviors (ratings, selections) for the purpose of providing content to a user [Figure 2 | column 10 «lines 20-38»].

In regards to (c), collation of preferences merely requires collecting the preferences. Both Noll and Hosken describe means for collecting user (or multiple user's) behavior and utilizing this collected information in order to personalize content.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Dohm Chankong

DC

January 11, 2006

Conferees:

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